

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOHN JOEY MARKS,

Petitioner,

v.

CALVIN JOHNSON, *et al.*,

Respondents.

Case No. 2:17-cv-01413-JCM-BNW

ORDER

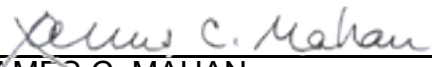
This action is a petition for writ of habeas corpus by John Joey Marks, an individual incarcerated at Nevada's High Desert State Prison. Marks is represented by appointed counsel. Respondents have filed an answer (ECF No. 70) and Marks has filed a reply (ECF No. 72), and the case is ripe for resolution of the merits of Marks's claims.

On May 23, 2022, the United States Supreme Court decided *Shinn v. Ramirez*, ___ U.S. ___, 2022 WL 1611786 (May 23, 2022). The Court determines that *Shinn* may affect the Court's consideration of evidence filed by Marks in support of his petition in this case, but not presented in state court. Such evidence may include, but may not be limited to, the following: the report of a neuropsychological evaluation of Marks conducted on November 22, 2017, by Sharon Jones-Forrester, PhD (Exh. 57 (ECF No. 22-14) (filed under seal)); a February 8, 2018, declaration of Marks's sister, Helen Marks (Exh. 58 (ECF No. 21-11)); medical/psychological records and court records from proceedings prior to the events that gave rise to this case (Exhs. 39, 40, 41, 42, 43 44, 45, 46, 47, 48, 49 (ECF Nos. 21 and 22) (ECF No. 22 filed under seal)); and other records from around the time of the events in this case (Exhs. 50, 51, 53, 54, 55, 56, 59

1 (ECF Nos. 21 and 22) (exhibits at ECF No. 22 filed under seal)). It appears that Marks
2 relies upon such evidence both in his attempt to show cause and prejudice relative to
3 the procedural default of claims, under *Martinez v. Ryan*, 566 U.S. 1 (2012), and in
4 support of his claims on their merits. The Court will grant the parties time to supplement
5 their answer and reply to address the effect of *Shinn*.

6 **IT IS THEREFORE HEREBY ORDERED** that Respondents will have 30 days
7 from the date of this order to file a supplement to their answer, addressing the question
8 of the effect of *Shinn* in this case. Petitioner will then have 30 days to supplement his
9 reply to address the same question. The parties are granted leave to address only this
10 specified issue in their supplemental answer and reply.

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12 DATED THIS 27th day of May, 2022.

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16 JAMES C. MAHAN
17 UNITED STATES DISTRICT JUDGE
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